

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Investigation of Tariffs Filed by ACS of)	CC Docket No. 02-36
Anchorage, Inc., and the National Exchange)	
Carrier Association)	
)	
December 17, 2001)	CCB/CPD No. 01-23
MAG Access Charge Tariff Filings)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: February 14, 2002

Released: February 15, 2002

ACS Direct Case Due by: March 7, 2002

NECA Direct Case Due by: March 14, 2002

Oppositions to Direct Case Due by: March 21, 2002

Rebuttal Due by: April 2, 2002

By the Chief, Competitive Pricing Division:

I. INTRODUCTION

1. In this order, we designate for investigation certain issues regarding the rates in tariffs that ACS of Anchorage, Inc. (ACS), and the National Exchange Carrier Association (NECA) filed to become effective January 1, 2002.¹ As discussed below, we designate these issues for investigation to ensure that ACS and NECA correctly implement the access charge reforms adopted by the Commission in the *Rate-of-Return Access Charge Reform Order*.² Specifically, pursuant to sections 204 and 205 of the Communications Act of 1934, as amended

¹ ACS's Transmittal Number 6 to Tariff FCC Number 1 (ACS December 17 tariff filing); NECA's Transmittal No. 919 to Tariff FCC No. 1.

² *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 19613 (2001) (*Rate-of-Return Access Charge Reform Order*). "Rate-of-return" carriers are permitted to earn no more than a Commission-prescribed return on the investments that they make in providing interstate exchange access services. *See generally* 47 C.F.R. § 65.700 *et seq.*

(the Act),³ we designate for investigation whether ACS: (1) used the appropriate baseline revenue requirement in making its December 17 tariff filing; (2) correctly determined the line-port costs to be reallocated to the common line category; (3) correctly reallocated the transport interconnection charge (TIC) among the access categories; and (4) developed access charge rates that reflect the appropriate baseline revenue requirement and the reallocations thereto. Due to the interrelationship between ACS's individual tariff and the tariff for the NECA common line pool, we also designate for investigation issues regarding NECA's common line rate development as it relates to the costs shifted to the NECA common line pool by ACS's reallocation of line-port and TIC revenue requirements.

II. BACKGROUND

2. ACS is an independent incumbent local exchange carrier (LEC) serving Anchorage, Alaska, and its environs. ACS participates in NECA's interstate common line access tariff, but files its own interstate traffic-sensitive switched access and special access tariffs. In June 2000, Anchorage Telephone Utility (ATU), ACS's predecessor, filed its annual access tariff pursuant to section 69.3 of the Commission's rules.⁴ ACS stated in the description and justification (D&J) supporting the 2000 filing that "[t]his filing reflects all identifiable Internet service provider (ISP) traffic as interstate."⁵ This tariff went into effect on July 1, 2000.⁶ In October 2000, ACS assumed the rates and terms of the ATU tariff.⁷

3. *GCI v. ACS Holdings*. In *GCI v. ACS Holdings*,⁸ the Commission adjudicated a complaint brought by General Communication, Inc. (GCI), against ACS and ATU and addressed ATU's cost allocation procedures. There, the Commission found, *inter alia*, that ATU: (1) improperly exceeded its prescribed rate-of-return in violation of the Act; (2) improperly assigned the traffic-sensitive costs of ISP traffic to the interstate jurisdiction for separations purposes,⁹ rather than the intrastate jurisdiction, contrary to Commission orders; and (3) counted each minute of an intraoffice call as one dial equipment minute (DEM), rather than two, contrary to Commission rules.¹⁰ The Commission directed ATU to assign to the intrastate jurisdiction for

³ 47 U.S.C. §§ 204 and 205.

⁴ 47 C.F.R. § 69.3.

⁵ ATU Tariff Transmittal No. 108, D&J, at 14 (June 16, 2000).

⁶ 2000 Annual Access Filings, CC Docket No. 00-122, Memorandum Opinion and Order, DA 00-1487 (Competitive Pricing Division, released June 30, 2000).

⁷ See ACS Transmittal No. 1, dated Sept. 26, 2000, effective Oct. 11, 2000. Under Transmittal No. 1, ACS cancelled ATU's Tariff FCC No. 1 and reissued the entire tariff under its name without change.

⁸ *General Communication, Inc. v. Alaska Communications Systems Holdings*, 16 FCC Rcd 2834 (2001), appeal pending sub nom. *ACS of Anchorage, Inc. v. FCC*, No. 01-1059 (D.C. Cir., filed Feb. 7, 2001) (*GCI v. ACS Holdings*).

⁹ Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the interstate and intrastate jurisdictions.

¹⁰ See *GCI v. ACS Holdings*, 16 FCC Rcd at 2840-54, paras. 16-50.

separations purposes the traffic-sensitive costs of carrying ISP traffic, and to count DEMs for intraoffice calls in the manner described in the order.¹¹ Because ATU's improper practices allowed ATU to unlawfully exceed its prescribed rate of return, the Commission also awarded damages to GCI for ATU's overearnings.¹²

4. *Jurisdictional Separations Freeze Order.* In the *Separations Freeze Order*, the Commission adopted certain recommendations for separations reform from the Federal-State Joint Board on Separations.¹³ Among other things, the Commission reaffirmed that ISP traffic shall be treated as intrastate traffic for separations purposes.¹⁴ The Commission also rejected a proposal from the Joint Board to compensate for increases in intrastate minutes, purportedly due to Internet growth, by lowering and freezing the local DEM at 95 percent of the current year level.¹⁵ The effect of such a DEM reduction would have been to shift costs to the interstate jurisdiction. Instead of adopting the DEM proposal, the Commission committed to seek specific comment on the status of this issue when it examines the effects of the separations freeze, and to work with the Joint Board to address the impact of the Internet and the growth of local minutes during the interim freeze.¹⁶ The Commission's action in freezing the allocation factors for rate-of-return LECs therefore incorporated the treatment of ISP traffic as intrastate. The freeze became effective July 1, 2001, based on the carrier's calendar year 2000 separations studies.¹⁷

5. *Rate-of-Return Access Charge Reform Order.* In the *Rate-of-Return Access Charge Reform Order*, the Commission adopted comprehensive interstate access charge and universal service reforms for rate-of-return carriers. Among other things, the Commission revised several of its access charge rules, effective January 1, 2002. LECs subject to rate-of-return regulation were required to revise their existing interstate access tariffs to implement the rule changes. Specifically, the revisions increased, as of January 1, 2002, the residential and single-line business subscriber line charge (SLC) cap and the multi-line business SLC cap to \$5.00 and \$9.20 per line, respectively, or, if less than the cap, the monthly cost per line.¹⁸ Carriers may assess one residential and single-line business SLC for Basic Rate Interface Integrated Services Digital Network (ISDN) service and five multi-line business SLCs for

¹¹ *GCI v. ACS Holdings*, 16 FCC Rcd at 2863-64, paras. 75, 77, 79.

¹² *Id.*

¹³ *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382, 11387-88, para. 9 (2001) (*Separations Freeze Order*).

¹⁴ *Id.*, 16 FCC Rcd at 11402-03, paras. 39-42; see also *2001 Annual Access Tariff Filings*, CC Docket No. 01-206, Memorandum Opinion and Order, FCC 01-352 (released Dec. 3, 2001) (rejecting Alltel's adjustment of its interstate DEM factor due to increased ISP traffic).

¹⁵ *Separations Freeze Order*, 16 FCC Rcd at 11399-11400, paras. 34-35, 11402-03, paras. 39-42.

¹⁶ *Id.* at 11403 para. 42.

¹⁷ *Separations Freeze Order*, 16 FCC Rcd at 11382, 11387-88, para. 9.

¹⁸ 47 C.F.R. § 69.104(n) and (p). See *Rate-of-Return Access Charge Reform Order*, 16 FCC Rcd at 19634, para. 42, 19638, para. 51.

Primary Rate Interface ISDN service.¹⁹ Carriers must recover their contributions to support universal service from a separately stated charge to be assessed on end users, rather than through interstate access charges.²⁰ Line port costs must be reallocated from local switching to the common line category.²¹ As a proxy for their actual line-port costs, carriers may shift 30 percent of their local switching costs to the common line category in lieu of conducting a cost study.²² ISDN line port costs in excess of basic analog line port costs are to be recovered through a new rate element.²³ The costs recovered through the transport interconnection charge (TIC) are to be reallocated among all the access categories, subject to a specific dollar limit equal to the TIC revenues for the twelve months ending June 30, 2001.²⁴ These cost reallocations require reassignment of certain costs from specified interstate access categories to the common line category. Many rate-of-return LECs file their own traffic-sensitive interstate access charge tariffs, but participate in the NECA interstate common line tariff. Therefore, the line port costs and certain TIC costs of LECs that file their own traffic-sensitive tariffs must be removed from the LECs' revenue requirement and included in the NECA common line pool's revenue requirement.

6. *Tariff Filings.* To implement the Commission's access charge reforms, effective January 1, 2002, ACS and NECA, along with other rate-of-return LECs, filed revised interstate access charge tariffs on or before December 17, 2001. This was ACS's first tariff filing since the Commission issued its *GCI v. ACS Holdings* order and its *Separations Freeze Order*. In its filing, ACS states that "[t]he adjusted interstate revenue requirement reflects the impacts of mandated shifts in cost between the traffic sensitive and carrier common line cost pools."²⁵ It further states that "[i]n preparing its revised interstate access rates, [it] used the same demand quantities as those contained in its original interstate access filing for the prospective period from July 1, 2000 through June 30, 2001."²⁶ GCI and AT&T Corporation (AT&T) filed petitions to suspend and investigate the ACS tariff.²⁷ ACS did not respond to the two petitions.

7. *Suspension Order.* On December 31, 2001, we suspended for one day the LECs'

¹⁹ See *Rate-of-Return Access Charge Reform Order*, 16 FCC Rcd at 19638, para. 51, 19640-41, para. 56.

²⁰ *Id.* at 19688-89, para. 177.

²¹ *Id.* at 19654, para. 90.

²² *Id.*

²³ *Id.* at 19656, para. 96.

²⁴ *Id.* at 19649, para. 76, 19658, para. 103; see also *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Declaratory Ruling, DA 01-2871 at paras. 3-5 (Competitive Pricing Division, released Dec. 11, 2001) (*TIC Declaratory Ruling*).

²⁵ ACS Transmittal No. 6, D&J, at 4.

²⁶ *Id.*

²⁷ Petition of GCI (filed Dec. 21, 2001) (GCI Petition); Petition of AT&T Corp. (filed Dec. 26, 2001) (AT&T Petition).

access tariffs filed in response to the *Rate-of-Return Access Charge Reform Order*, imposed an accounting order, and initiated an investigation into the lawfulness of the rates contained in the tariff filings.²⁸ After reviewing the initial tariffs, corresponding with the parties, and analyzing supplemental data and tariff revisions, we subsequently reconsidered on our own motion our decision to suspend and investigate the tariffs of all carriers other than the ACS tariff and NECA's common line tariff.²⁹

III. ISSUES DESIGNATED FOR INVESTIGATION

A. ACS's baseline revenue requirement

1. Background

8. In accordance with the rules adopted in the *Rate-of-Return Access Charge Reform Order*, ACS was required to reallocate a portion of its interstate local switching and TIC revenue requirement to the common line category beginning January 1, 2002.³⁰ The starting point for these reallocations under the procedures adopted in the *Rate-of-Return Access Charge Reform Order* is the carrier's interstate revenue requirement. As noted above, ACS treated ISP minutes as interstate for purposes of determining its interstate revenue requirement.

9. GCI and AT&T argue that ACS's December 17 tariff filing is unlawful.³¹ GCI and AT&T assert that: (1) the tariff filing was based on a July 2000 to June 2001 prospective cost study rather than a calendar year 2000 study using 2000 DEM factors;³² (2) ACS continues to assign ISP traffic to the interstate jurisdiction in violation of the Commission's order in *GCI v. ACS Holdings*;³³ (3) ACS continues to maintain rates that consistently have generated significant overearnings for the past six years;³⁴ and (4) ACS continues to assign ISP costs to the intrastate jurisdiction in its filings with the Regulatory Commission of Alaska, thereby permitting double recovery.³⁵ GCI also asserts that ACS assigns all unbundled network element (UNE) revenues to the intrastate jurisdiction, while allocating a portion of the costs associated with the provision of UNEs to the interstate jurisdiction, thereby increasing the recovery from the interstate

²⁸ *December 17, 2001 MAG Access Charge Tariff Filings*, CCB/CPD File No. 01-23, Order, DA 01-3023 (Competitive Pricing Division, released Dec. 31, 2001), *Erratum*, DA 01-3032 (Competitive Pricing Division, released Dec. 31, 2001) (collectively *Suspension Order*).

²⁹ *December 17, 2001, MAG Access Charge Tariff Filings*, CCB/CPD No. 01-23, Order on Reconsideration, DA 02-234 (Competitive Pricing Division, released Jan. 30, 2002).

³⁰ 47 C.F.R. § 69.306(d).

³¹ AT&T Petition at 10-13; GCI Petition at 1.

³² GCI Petition at 1-6; *see also* AT&T Petition at 11.

³³ GCI Petition at 2, 6-12; *see also* AT&T Petition at 10-11.

³⁴ GCI Petition at 2, 12-14; *see also* AT&T Petition at 12.

³⁵ GCI Petition at 2, 14-17; *see also* AT&T Petition at 11.

jurisdiction.³⁶

2. Discussion

10. The initial issue designated for investigation is whether it was appropriate for ACS to use the revenue requirement underlying its 2000 annual access charge tariff filing, which counted ISP minutes of use as interstate, to determine the amount of line-port and TIC costs to be allocated to the common line category and to establish revised access charges. ACS's December 17 tariff filing is the first tariff filing ACS has made since the Commission issued its order in *GCI v. ACS Holdings* and its *Separations Freeze Order*. Yet, ACS does not appear to have altered the allocation of ISP traffic costs that it employed prior to those orders. As noted above, ACS's December 17 tariff is based on the revenue requirement underlying its 2000 annual access charge tariff filing, which was determined by classifying ISP minutes of use as interstate minutes. This treatment of ISP minutes of use as interstate minutes appears to conflict with Commission orders requiring that ISP traffic costs be assigned to the intrastate jurisdiction for separations purposes, including the *GCI v. ACS Holdings* order and the *Separations Freeze Order*.

11. Nonetheless, ACS may, as part of its direct case, seek to justify its classification of ISP minutes as interstate to determine the interstate revenue requirement. In addition, we direct ACS to submit, as part of its direct case, a recalculated interstate revenue requirement for the period July 1, 2000, to June 30, 2001, that complies with the Commission's decision in *GCI v. ACS Holdings*, the separations rules and orders cited therein, and the requirements of the *Separations Freeze Order*. As part of its calculation of a revised interstate revenue requirement, ACS must recalculate the interstate DEM, intrastate DEM, and local DEM factors, based on calendar year 2000 data that allocates ISP minutes to the intrastate jurisdiction (and excludes ISP minutes from the interstate jurisdiction) and counts two DEMs for each intraoffice call. In support of this calculation, ACS must provide, for calendar year 2000: (1) total DEM minutes; (2) interstate DEM minutes (excluding ISP minutes); (3) intrastate DEM minutes (including ISP minutes); and (4) ISP minutes. ACS shall delineate all assumptions and provide any other data used in calculating these DEM factors. ACS shall also submit any work papers generated in the process of the recalculation. Using the recalculated DEM factor, ACS must recalculate and submit with its direct case revised revenue requirements for each access category and the interexchange category. ACS shall include all cost studies and work papers supporting each of these recalculations. We also direct ACS to submit any studies of the allocation of costs, expenses, and revenues between the state and federal jurisdictions that it submitted to the Regulatory Commission of Alaska in case U-01-82, Intrastate Access Charge Revenue Requirement, Cost of Service, and Rate Design Study.

12. In addition, ACS shall, as part of its direct case, indicate how it allocates revenues from the provision of UNEs. If these revenues are allocated differently than the associated costs, ACS shall explain why the allocation process is different. If the allocation procedures are different, ACS shall also submit data reflecting the allocation of UNE revenues on a comparable basis to the allocation of the associated costs. ACS shall submit any work papers generated in

³⁶ See Letter from Joe D. Edge, Esq., Counsel to GCI, to Tamara Preiss, Chief, Competitive Pricing Division, at 6 (Jan. 14, 2002).

the process of this allocation.

B. ACS's reallocation of line-port costs

1. Background

13. The *Rate-of-Return Access Charge Reform Order* required ACS to reallocate line-port costs from the local switching category to the common line category beginning January 1, 2002.³⁷ The rules permitted ACS to conduct a cost study, or to use 30 percent of its local switching revenue requirement as a proxy, to establish the line-port costs to be reallocated. In its December 17 tariff filing, ACS elected to use the 30 percent proxy approach for determining line-port costs and applied this percentage to a local switching revenue requirement of \$8,614,663, which was the revenue requirement basis for its 2000 annual access tariff filing.³⁸ ACS accordingly determined its line-port costs to be \$2,584,432.

14. GCI and AT&T argue that ACS's local switching revenue requirement is overstated because ACS has not complied with the requirements of the *Separations Freeze Order*, or the Commission's directive in *GCI v. ACS Holdings* to treat ISP traffic as intrastate for separations purposes.³⁹ They also state that ACS did not use the same line-port cost that NECA used, on behalf of ACS, in preparing NECA's common line tariff.⁴⁰

2. Discussion

15. The second issue designated for investigation is whether ACS correctly calculated the amount of line-port costs to be reallocated to the common line category. If, under the preceding issue, we conclude that it was appropriate for ACS to use the local switching revenue requirement from its 2000 annual tariff filing, which included ISP traffic in the count of interstate minutes for purposes of determining the interstate local switching revenue requirement, it appears that ACS would have correctly calculated the amount of line-port costs to be reallocated to the common line category in its December 17 tariff filing. If, however, we conclude that ACS should have used a revenue requirement calculated in accordance with the Commission's order in *GCI v. ACS Holdings* and with the rules adopted in the *Separations Freeze Order*, the line-port costs ACS included in its December 17 tariff filing would appear to be overstated.

16. ACS may, as part of its direct case, seek to justify its use of \$2,584,432 as its line-port cost in its December 17 tariff filing. In addition, as part of its direct case, ACS shall submit the following information. First, it shall indicate the line-port costs it reported to NECA to be used in NECA's tariff development for its December 17 common line tariff filing. Second, ACS

³⁷ 47 C.F.R. § 69.306(d); *Rate-of-Return Access Charge Reform Order*, 16 FCC Rcd at 19654, para. 90.

³⁸ The local switching revenue requirement amount ACS used, as noted above, reflects the inclusion of ISP minutes in the interstate count of minutes to allocate local switching costs between the federal and state jurisdictions.

³⁹ AT&T Petition at 10-11; GCI Petition at 6-12.

⁴⁰ AT&T Petition at 12 n.19; GCI Petition at 5.

shall submit the line-port costs to be reallocated to the common line category based on the recalculated interstate local switching revenue requirement submitted in response to Issue A, above, using the 30 percent factor it opted to use in its December 17 tariff filing. ACS shall submit all work papers associated with the calculation of the line-port costs to be reassigned to the common line category.

C. ACS's reallocation of its TIC revenue requirement

1. Background

17. ACS was required to eliminate its TIC rate element effective January 1, 2002, and to reallocate the costs recovered through the TIC among all the interstate access charge categories.⁴¹ The common line, local switching, information, and special access categories are each to be allocated their proportional share of the TIC amount relative to each category's share of the total access charge revenue requirement, subject to certain adjustments.⁴² Any remainder is retained in the transport category. The amount of TIC to be reallocated is subject to a cap equal to the TIC revenues for the twelve month period ending June 30, 2001.⁴³ In reallocating the TIC amount among the other access categories, ACS used the revenue requirement underlying its 2000 tariff filing, which counted ISP traffic as interstate in allocating costs between the federal and state jurisdictions. ACS's treatment of ISP minutes as interstate also appears to have affected the development of the revenue requirement for the transport category, as well as that of the local switching category. This use of the inflated local switching demand in calculating the TIC revenue suggests that the interstate revenue requirement for local transport may also be inflated. An inflated transport revenue requirement likely would have resulted in overstatement of the TIC revenue requirement. The revenues for the twelve months ending June 30, 2001, would have reflected the excessive revenue requirement and thus would also have been too large. ACS eliminated its TIC rate element of \$725,681 and allocated it among the other access categories based on the revenue requirements supporting its 2000 annual access charge tariff filing.⁴⁴ Its determination of the ceiling on the TIC revenue requirements that could be reallocated was also based on rates derived from the 2000 revenue requirement.

2. Discussion

18. The third issue designated for investigation is ACS's reallocation of its TIC revenue requirement. If the Commission concludes that ACS was correct in using its 2000 revenue requirement, ACS's December 17 tariff would appear to be correct. If, however, the Commission determines that the baseline revenue requirement should have been developed by counting ISP demand as intrastate, ACS's TIC reallocation would have been incorrect in two

⁴¹ See 47 C.F.R. §§ 69.123 and 69.415(a).

⁴² 47 C.F.R. § 69.415.

⁴³ See *TIC Declaratory Ruling*, DA 01-2871 at paras. 3-5.

⁴⁴ ACS Transmittal No. 6, cost support, at 1. The amount was allocated as follows: common line, \$388,721; local switching, \$162,274; special access, \$126,590; transport, \$36,038; directory assistance, \$5,301; common channel signaling revenue, \$3587; and 800 data base, \$3169.

possible respects. First, the amount of TIC revenue requirement reallocated may have been too large. Second, the relative allocation to the different access categories would have been based on the wrong revenue requirement relationships.

19. ACS may, as part of its direct case, seek to justify its use of the revenue requirements underlying its 2000 annual access charge tariff filing in determining the amount of TIC revenue requirement to be reallocated and the relative amounts reallocated to other access categories in its December 17 tariff filing. In connection with Issue A, above, ACS has been directed to submit a recalculated revenue requirement for the transport category. We further direct ACS to submit, as part of its direct case, a recalculated TIC revenue requirement derived from that revised interstate transport revenue requirement. For purposes of recalculating the TIC revenue requirement, ACS should use direct-trunked transport and entrance facility rates that are comparable to special access rates for similar bandwidths and shall use its fill factor in determining per-minute transport rates. This is consistent with the approach the Commission adopted when it realigned transport rates based on comparisons to rates for similar special access services and created the TIC as a residual charge.⁴⁵ ACS shall also recalculate what the TIC revenues would have been for the twelve-month period ending June 30, 2001, if it had determined its interstate transport revenue requirement and established TIC rates based on that revenue requirement. For the purposes of the recalculations described above, this revised TIC revenue amount will be the ceiling for the TIC revenue requirements that can be reallocated among the access categories. We also direct ACS, as part of its direct case, to submit revised TIC reallocations to other access categories consistent with the revised revenue requirements calculated in response to Issue A, above. ACS shall submit all work papers associated with the calculation of the reallocation of its TIC revenue requirement among the access charge categories.

D. The reasonableness of ACS's revised access rates

1. Background

20. To revise its rates for the December 17 tariff filing, ACS began with the revenue requirement underlying its 2000 annual access charge tariff filing. It adjusted the revenue requirements for the calculations described in the previous two sections. Using demand levels from its 2000 annual access charge tariff filing, ACS calculated new rates for the elements listed in its D&J accompanying its tariff filing.⁴⁶ ACS did not revise its existing local switching rate of \$0.011373 per minute, which it states is already lower than the rate of \$0.012253 that it could have charged pursuant to its cost support data.⁴⁷ ACS also did not revise certain non-recurring charges and other miscellaneous charges.

21. GCI and AT&T argue that ACS should have reduced its local switching rate and that, because it did not, the December 17 tariff filing of ACS is not revenue neutral because ACS

⁴⁵ See *Transport Rate Structure and Pricing*, CC Docket No. 91-213, Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd 7006 (1992).

⁴⁶ ACS Transmittal No. 6, D&J, at 6-8.

⁴⁷ ACS Transmittal No. 6, D&J, at 12.

will receive the \$2,584,432 from the NECA common line pool despite not having reduced its local switching rate.⁴⁸

2. Discussion

22. The fourth issue designated for investigation involves the access charge rates that ACS should be charging in its interstate access tariff. If the Commission concludes that ACS correctly used the revenue requirement underlying its 2000 annual tariff filing to establish revised rates, it appears that ACS's December 17 tariff filing established appropriate rates. If, on the other hand, the Commission concludes with respect to Issue A that the revenue requirement underlying ACS's 2000 annual tariff filing was not the appropriate revenue requirement, ACS's access charge rates would appear to have been excessive under the *Rate-of-Return Access Charge Reform Order*, and thus unjust and unreasonable under section 201(b).⁴⁹

23. ACS may, as part of its direct case, seek to justify the reasonableness of the rates it filed in its December 17 tariff filing. We also direct ACS, as part of its direct case, to submit the revised tariff rates for all access charge elements that would result if we require it to file based on the recalculated revenue requirements described in Issues A-C, above. ACS shall include both the revenue requirement and demand components for each rate element and shall submit the work papers supporting the revised rate development, including any assumptions used in deriving the revised rates. Parties should comment on which rates may appropriately be adjusted effective January 1, 2002, under the provisions of section 204, and which may only be modified prospectively.

E. NECA's common line rate development

1. Background

24. The *Rate-of-Return Access Charge Reform Order* required rate-of-return LECs to reassign line-port costs and a portion of the TIC from specified interstate access categories to the common line category. Many rate-of-return LECs file their own traffic-sensitive tariffs, but participate in the NECA common line tariff. Therefore, the line port costs and certain TIC costs of LECs that file their own traffic-sensitive tariffs must be removed from the LECs' revenue requirements underlying their traffic-sensitive tariffs and included in the NECA common line pool's revenue requirement. Any changes that we direct ACS to make in its allocations could affect NECA's calculation of carriers' line costs and thus affect one or more of the common line rates in the NECA common line tariff.

2. Discussion

25. This investigation of the NECA common line tariff is a limited one, triggered by the interrelationship between the traffic-sensitive tariffs of rate-of-return LECs that file their own traffic-sensitive tariffs and the NECA common line pool. Initially, we direct NECA, as part of its direct case, to submit the common line revenue requirement underlying the December 17

⁴⁸ AT&T Petition at 10; GCI Petition at 6-12.

⁴⁹ 47 U.S.C. § 201(b).

tariff filing that was attributable to ACS, with the line-port costs and the reallocated TIC amounts separately stated. We also direct NECA, as part of its direct case, to submit the common line revenue requirement ACS provides to NECA as a result of the recalculations required for issues A through C, above, with the line-port costs and the reallocated TIC amounts separately stated. Finally, we direct NECA to submit the revised rates that would result from these revised common line revenue requirement amounts if the Commission were to require ACS to comply with the revised interstate revenue requirements. NECA shall submit all work papers supporting its common line rates that may be affected by any revision resulting from any modification ACS may be required to make in its common line costs reported to NECA.

IV. PROCEDURAL MATTERS

A. Filing Schedules

26. This investigation is designated CC Docket No. 02-36. ACS of Anchorage, Inc., and the National Exchange Carrier Association are the parties designated to this investigation.

27. ACS shall file its direct case no later than March 7, **2002**. NECA, whose filing depends on data from ACS, shall file its direct case no later than March 14, **2002**. The direct cases must present the parties' positions with respect to the issues described in this Order. Pleadings responding to the direct cases may be filed no later than March 21, **2002**, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." ACS and NECA may each file a "Rebuttal" to oppositions or comments no later than April 2, **2002**.

28. An original and four copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall serve with three copies: Competitive Pricing Division, Common Carrier Bureau, 445 12th Street, S.W., Room 5-A233, Washington, D.C. 20554, Attn: Douglas Slotten. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. Such comments should specify the docket number of this investigation, CC Docket No. 02-36. Parties are also strongly encouraged to submit their pleadings via the Internet through the Electronic Comment Filing System at <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is CC Docket No. 02-36. Parties may also submit an electronic comment via Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

29. Interested parties who wish to file comments via hand-delivery are also notified that effective December 18, 2001, the Commission will only receive such deliveries weekdays from 8:00 a.m. to 7:00 p.m., via its contractor, Vistronix, Inc., located at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. **The Commission no longer accepts these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743.** Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed

of before entering the building. In addition, this is a reminder that as of October 18, 2001, the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (*e.g.*, FedEx), including documents sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8:00 a.m. to 5:30 p.m. USPS First-Class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. The following chart summarizes this information:

TYPE OF DELIVERY	PROPER DELIVERY ADDRESS
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (<i>e.g.</i> , FedEx), including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-Class, Express, and Priority Mail	445 12 th Street, SW Washington, DC 20554

30. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information, or a writing containing the nature and source of such information, is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

B. *Ex Parte* Requirements

31. Pursuant to 47 C.F.R. § 1.1200(a), which permits the Commission to adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires, this proceeding will be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings under 47 C.F.R. § 1.1206, subject to the limitation noted below. Designating this proceeding as "permit-but-disclose" will provide an opportunity for all interested parties to receive notice of the various technical, legal, and policy issues raised in *ex parte* presentations made to the Commission in the course of this proceeding. This will allow interested parties to file responses or rebuttals to proposals made on the record in this proceeding. Accordingly, we find that it is in the public interest to designate this proceeding as "permit-but-disclose," except as noted in the following paragraph. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-sentence or two-sentence description of the views and arguments presented is generally required.⁵⁰

32. Any person making a written presentation in this proceeding regarding issues

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Id.

raised in *GCI v. ACS Holdings* must file a copy of the written presentation in the record of this proceeding and in the record of *GCI v. ACS Holdings* and serve a copy on the parties to that proceeding (namely GCI and ACS). Any person making an oral presentation in this proceeding regarding issues raised in *GCI v. ACS Holdings* must provide parties to that proceeding an opportunity to be present at the oral presentation. This procedure must be followed because *GCI v. ACS Holdings* is a restricted proceeding in which *ex parte* presentations are prohibited under section 1.1208 of the Commission's rules.

33. Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Acting Secretary, William F. Caton, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies: Competitive Pricing Division, Common Carrier Bureau, 445 12th Street, S.W., Room 5-A233, Washington, D.C. 20554, Attn: Douglas Slotten. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

C. Paperwork Reduction Act

34. This order designating issues for investigation contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Pub. Law 104-13.

V. ORDERING CLAUSES

35. IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

36. IT IS FURTHER ORDERED that ACS of Anchorage, Inc., and the National Exchange Carrier Association SHALL BE parties to this proceeding.

37. IT IS FURTHER ORDERED that ACS of Anchorage and the National Exchange Carrier Association SHALL each INCLUDE, in its direct case, a response to each request for information that it is required to answer by this Order.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Competitive Pricing Division